



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 2743-00
13 October 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 28 July 1977 for six years at age 19. On the same day, you were ordered to active duty for a period of 36 months. The record reflects that you were advanced to FN (E-3) and served for 25 months without incident. However, during the months of August and September 1979 you received two nonjudicial punishments (NJP) for a one day period of unauthorized absence (UA), four instances of absence from your appointed place of duty, and disobedience of a lawful order. After the second NJP, you were counseled regarding your misconduct and warned that failure to take corrective action could result in administrative discharge.

On 7 October 1979 you were reported UA again and were declared a deserter on 7 November 1979. You remained absent until you were apprehended by civil authorities on 11 March 1983. On 22 April 1983, you were convicted by special court-martial of the foregoing 1,251 day period of UA. You were sentenced to confinement at hard labor for 90 days, forfeitures of \$382 per

month for three months, reduction in rate to FR (E-1), and a bad conduct discharge. The convening authority approved the sentence but suspended the confinement in excess of 60 days for a period of one year from the date of trial. You were released from confinement on 27 May 1983 and placed on appellate leave. The Navy Court of Military Review affirmed the findings and the sentence on 29 November 1983 and you received the bad conduct discharge on 5 July 1984.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 16 years since you were discharged. The Board noted your contentions to the effect that you had family problems at the time of your service, your evaluations were all 3.8, and you completed the required period of active service. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of two NJPs and a special court-martial conviction of more than 41 months of UA. Your contention of family problems is neither supported by the evidence of record nor by any evidence submitted in support of your applications. Your contention that you completed your active obligated service is without merit. Your record reflects that you completed nearly 27 months before going UA for more than three years. Lost time due to UA and military confinement is not creditable service. You have provided no evidence of any circumstance which would have warranted a UA of more than three years. The Board concluded that you were guilty of too much UA to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director